IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3177 OF 1997
ALONG WITH
WRIT PETITION NOS.6128/1997, 1289/1999, 4619/1999, 153/2000, 1476/2000, 2079/2000, 2608/2000, 6422/2000, 5175/2001, 152/2002, 1651/2002, 5359/2003 AND 7410/2003

WRIT PETITION NO.3177 OF 1997

1) Municipal Labour Union)
Jai-Malhar Prasad Mahagiri Koliwada)
Reti-Bunder Road, Thane (West).)

2) Udayraj Jaiswal)
C/o. Municipal Labour Union)
Jai-Malhar Prasad Mahagiri Koliwada)
Reti-Bunder Road, Thane (West).)

3) Dattatray Maruti Kaldate)
C/o. Municipal Labour Union)
Jai-Malhar Prasad Mahagiri Koliwada)
Reti-Bunder Road, Thane (West).)

4) Sukraya Sonawane)
C/o. Municipal Labour Union)
Jai-Malhar Prasad Mahagiri Koliwada)
Reti-Bunder Road, Thane (West).).. PETITIONERS

VERSUS

1) Thane Municipal Corporation)
through its Commissioner)
having his office at Mahapalika)
Bhavan, Dr.Almeida Road, Chandanwadi)
Panchapakhadi, Thane.)

2) The State of Maharashtra)
through its Secretary of Urban)
Development and General)
Administration Departments)
having their offices at)
Mantralaya, Bombay.).. RESPONDENTS

ALONG WITH
WRIT PETITION NO.6128 OF 1997

1) Municipal Labour Union)
Jai-Malhar Prasad Mahagiri Koliwada)

Reti-Bunder Road, Thane (West).)

2) Dhondiram Sabley)
C/o. Municipal Labour Union)
Jai-Malhar Prasad Mahagiri Koliwada)
Reti-Bunder Road, Thane (West).)

3) Pandurang Hari Shinde)
C/o. Municipal Labour Union)
Jai-Malhar Prasad Mahagiri Koliwada)
Reti-Bunder Road, Thane (West).).. PETITIONERS

VERSUS

1) Thane Municipal Corporation)
through its Commissioner)
having his office at Mahapalika)
Bhavan, Dr.Almeida Road, Chandanwadi)
Panchapakhadi, Thane.)

2) The State of Maharashtra)
through its Secretary of Urban)
Development and General)
Administration Departments)
having their offices at)
Mantralaya, Bombay.).. RESPONDENTS

WITH
WRIT PETITION NO.1289 OF 1999

1) Municipal Labour Union)
Jai-Malhar Prasad Mahagiri Koliwada)
Reti-Bunder Road, Thane (West).)

2) Gulab Sadashiv Kamble)
C/o. Municipal Labour Union)
Jai-Malhar Prasad Mahagiri Koliwada)
Reti-Bunder Road, Thane (West).).. PETITIONERS

VERSUS

1) Thane Municipal Corporation)
through its Commissioner)
having his office at Mahapalika)
Bhavan, Dr.Almeida Road, Chandanwadi)
Panchapakhadi, Thane.)

2) The State of Maharashtra)
through its Secretary of Urban)
Development and General)
Administration Departments)
having their offices at)

Mantralaya, Bombay.).. RESPONDENTS

WITH
WRIT PETITION NO.4619 OF 1999

1) Municipal Labour Union)
Jai-Malhar Prasad Mahagiri Koliwada)
Reti-Bunder Road, Thane (West).)

2) Dhondiram Jaywant Surve)
C/o. Municipal Labour Union)
Jai-Malhar Prasad Mahagiri Koliwada)
Reti-Bunder Road, Thane (West).).. PETITIONERS

VERSUS

1) Thane Municipal Corporation)
through its Commissioner)
having his office at Mahapalika)
Bhavan, Dr.Almeida Road, Chandanwadi)
Panchapakhadi, Thane.)

2) The State of Maharashtra)
through its Secretary of Urban)
Development and General)
Administration Departments)
having their offices at)
Mantralaya, Bombay.).. RESPONDENTS

WITH
WRIT PETITION NO.153 OF 2000

1) Municipal Labour Union)
Jai-Malhar Prasad Mahagiri Koliwada)
Reti-Bunder Road, Thane (West).)

2) Uttam Krishna Sawant)
C/o. Municipal Labour Union)
Jai-Malhar Prasad Mahagiri Koliwada)
Reti-Bunder Road, Thane (West).).. PETITIONERS

VERSUS

1) Thane Municipal Corporation)
through its Commissioner)
having his office at Mahapalika)
Bhavan, Dr.Almeida Road, Chandanwadi)
Panchapakhadi, Thane.)

2) The State of Maharashtra)
through its Secretary of Urban)

Development and General)
Administration Departments)
having their offices at)
Mantralaya, Bombay.).. RESPONDENTS

WITH
WRIT PETITION NO.1476 OF 2000

1) Municipal Labour Union)
Jai-Malhar Prasad Mahagiri Koliwada)
Reti-Bunder Road, Thane (West).)

2) Ramchandra Kallappa Jadhav)
C/o. Municipal Labour Union)
Jai-Malhar Prasad Mahagiri Koliwada)
Reti-Bunder Road, Thane (West).).. PETITIONERS

VERSUS

1) Thane Municipal Corporation)
through its Commissioner)
having his office at Mahapalika)
Bhavan, Dr.Almeida Road, Chandanwadi)
Panchapakhadi, Thane.)

2) The State of Maharashtra)
through its Secretary of Urban)
Development and General)
Administration Departments)
having their offices at)
Mantralaya, Bombay.).. RESPONDENTS

WITH
WRIT PETITION NO.2079 OF 2000

1) Municipal Labour Union)
Jai-Malhar Prasad Mahagiri Koliwada)
Reti-Bunder Road, Thane (West).)

2) Dashrath M. Kale)
C/o. Municipal Labour Union)
Jai-Malhar Prasad Mahagiri Koliwada)
Reti-Bunder Road, Thane (West).).. PETITIONERS

VERSUS

1) Thane Municipal Corporation)
through its Commissioner)
having his office at Mahapalika)
Bhavan, Dr.Almeida Road, Chandanwadi)
Panchapakhadi, Thane.)

2) The State of Maharashtra)
through its Secretary of Urban)
Development and General)
Administration Departments)
having their offices at)
Mantralaya, Bombay.).. RESPONDENTS

WITH
WRIT PETITION NO.2608 OF 2000

1) Municipal Labour Union)
Jai-Malhar Prasad Mahagiri Koliwada)
Reti-Bunder Road, Thane (West).)

2) Vasant Dhondu Berde)
C/o. Municipal Labour Union)
Jai-Malhar Prasad Mahagiri Koliwada)
Reti-Bunder Road, Thane (West).).. PETITIONERS

VERSUS

1) Thane Municipal Corporation)
through its Commissioner)
having his office at Mahapalika)
Bhavan, Dr.Almeida Road, Chandanwadi)
Panchapakhadi, Thane.)

2) The State of Maharashtra)
through its Secretary of Urban)
Development and General)
Administration Departments)
having their offices at)
Mantralaya, Bombay.).. RESPONDENTS

WITH
WRIT PETITION NO.6422 OF 2000

1) Municipal Labour Union)
Jai-Malhar Prasad Mahagiri Koliwada)
Reti-Bunder Road, Thane (West).)

2) Vithal Yeshwant Kadam)
C/o. Municipal Labour Union)
Jai-Malhar Prasad Mahagiri Koliwada)
Reti-Bunder Road, Thane (West).).. PETITIONERS

VERSUS

1) Thane Municipal Corporation)
through its Commissioner)
having his office at Mahapalika)
Bhavan, Dr.Almeida Road, Chandanwadi)

Panchapakhadi, Thane.)

2) The State of Maharashtra)
through its Secretary of Urban)
Development and General)
Administration Departments)
having their offices at)
Mantralaya, Bombay.).. RESPONDENTS

WITH
WRIT PETITION NO.3289 OF 2001

1) Municipal Labour Union)
Jai-Malhar Prasad Mahagiri Koliwada)
Reti-Bunder Road, Thane (West).)

2) Shiva Dharma Patil)
C/o. Municipal Labour Union)
Jai-Malhar Prasad Mahagiri Koliwada)
Reti-Bunder Road, Thane (West).).. PETITIONERS

VERSUS

1) Thane Municipal Corporation)
through its Commissioner)
having his office at Mahapalika)
Bhavan, Dr.Almeida Road, Chandanwadi)
Panchapakhadi, Thane.)

2) The State of Maharashtra)
through its Secretary of Urban)
Development and General)
Administration Departments)
having their offices at)
Mantralaya, Bombay.).. RESPONDENTS

WITH
WRIT PETITION NO.5175 OF 2001

1) Municipal Labour Union)
Jai-Malhar Prasad Mahagiri Koliwada)
Reti-Bunder Road, Thane (West).)

2) Gopal Singh Rana)
C/o. Municipal Labour Union)
Jai-Malhar Prasad Mahagiri Koliwada)
Reti-Bunder Road, Thane (West).).. PETITIONERS

VERSUS

1) Thane Municipal Corporation)
through its Commissioner)

having his office at Mahapalika)
Bhavan, Dr.Almeida Road, Chandanwadi)
Panchapakhadi, Thane.)

2) The State of Maharashtra)
through its Secretary of Urban)
Development and General)
Administration Departments)
having their offices at)
Mantralaya, Bombay.).. RESPONDENTS

WITH
WRIT PETITION NO.152 OF 2002

Rajaram Jairam Sakpal)
Shanta "A" Niwas, Ground Floor)
Room No.7, Shivaji Nagar)
Rabodi No.2, Thane (West).).. PETITIONER

VERSUS

1) Thane Municipal Corporation)
through its Commissioner)
having his office at Mahapalika)
Bhavan, Dr.Almeida Road, Chandanwadi)
Panchapakhadi, Thane.)

2) The State of Maharashtra)
through its Secretary of Urban)
Development and General)
Administration Departments)
having their offices at)
Mantralaya, Bombay.).. RESPONDENTS

WITH
WRIT PETITION NO.1651 OF 2002

Dagdu Jairam More)
Shankar Nagar, Wagle Estate)
Kholi No.46, Gorkul Society)
Thane.).. PETITIONER

VERSUS

1) Thane Municipal Corporation)
through its Commissioner)
having his office at Mahapalika)
Bhavan, Dr.Almeida Road, Chandanwadi)
Panchapakhadi, Thane.)

2) The State of Maharashtra)
through its Secretary of Urban)

Development and General)
Administration Departments)
having their offices at)
Mantralaya, Bombay.).. RESPONDENTS

WITH
WRIT PETITION NO.5359 OF 2003

Bhaskar Shridhar Nair)
Thane Ghodbandar Road)
Dongari Pada, Post Kasar Vadavali)
Thane.).. PETITIONER

VERSUS

1) Thane Municipal Corporation)
through its Commissioner)
having his office at Mahapalika)
Bhavan, Dr.Almeida Road, Chandanwadi)
Panchapakhadi, Thane.)

2) The State of Maharashtra)
through its Secretary of Urban)
Development and General)
Administration Departments)
having their offices at)
Mantralaya, Bombay.).. RESPONDENTS

AND
WRIT PETITION NO.7410 OF 2003

Khadak Bahadur Jagat Bahadur)
Adhikari)
Room No.6, Ghanshyam Niwas)
Balkum Pada No.1, Thane 400 608.).. PETITIONER

VERSUS

1) Thane Municipal Corporation)
through its Commissioner)
having his office at Mahapalika)
Bhavan, Dr.Almeida Road, Chandanwadi)
Panchapakhadi, Thane.)

2) The State of Maharashtra)
through its Secretary of Urban)
Development and General)
Administration Departments)
having their offices at)
Mantralaya, Bombay.).. RESPONDENTS

Mrs.Neeta Karnik for the Petitioners in all the.

Writ Petitions.

Mr.R.S.Apte for Respondent No.1 in all the Writ Petitions.

Mr.S.R.Nargolkar, Assistant Government Pleader, for Respondent No.2 in all the Writ Petitions.

CORAM: V.G. PALSHIKAR AND SMT.NISHITA MHATRE, JJ.

DATED: 22 FEBRUARY 2005

JUDGMENT : (PER MHATRE, J.)

. The question involved in all these Writ Petitions is similar and, therefore, they are being heard and disposed of together.

2. The workmen involved in these Petitions who are the Petitioners were employed in the Class IV category as Safai Kamgar, Bigari, Ward-boy, Aaya, Peon, Mukadam, Mali, Superior, Field Worker, Hawaldar, Jamadar, Carpenter, Mason, Head Mukadam, Deptrdan, Typist, etc.. They were retired at the age of 58 years instead of 60 years which, according to them, is their actual age of superannuation. The Union representing the workmen was informed by the officers of the Thane Municipal Corporation (hereinafter referred to as "the Corporation") that there had been reclassification of the aforesaid categories into Class III posts. These resolutions were not furnished either to the Union or to the workmen. Subsequently, the Union learnt that two

resolutions had been passed in the year 1993 whereunder the benefits and privileges of higher posts which were available to those working as Clerks, Jamadar and Hawaldar and whose posts had been reclassified as Class III posts were protected. Their age of superannuation was retained as 60 years.

3. One Krishna Bhikaji Shinde, a Mali, working with the Corporation was superannuated at the age of 58 years. The notice issued to him was challenged by filing Writ Petition No.5854 of 1996. Similar notices had also been issued to other workmen. All these notices have been challenged by the workmen in these Writ Petitions.

4. At the time of admission of Writ Petition No.5854 of 1996, Rule was issued and interim relief was granted in terms of prayer clause (b) which reads as under :-

> "(b) pending the hearing and final disposal of this Petition :
>
> (ii) be pleased to restrain the Respondent No.1 from acting upon the impugned superannuation notice dated 29.3.97 issued to the Petitioner No.2 and allow him to perform his duties and draw remuneration from the Respondent No.1 till 31.7.1999;
>
> (iii) be pleased to restrain the Respondent No.1 from acting upon the superannuation notice dated 7.2.97 issued to the Petitioner No.3 and allow

him to perform duties and draw remuneration with the Respondent No.1 till 31.7.1999;

(iv) be pleased to restrain Respondent No.1 from acting upon the superannuation notice dated 27.3.1997 issued to Petitioner No.4 and allow him to perform his duties and draw remuneration till 31.10.1999."

5. Similar interim orders have been passed in all the Writ Petitions at the time of admission, except in Writ Petition No.1651 of 2002 which was admitted and is being heard today. There is no dispute that all the workmen concerned except the Petitioners in Writ Petition Nos.5359 of 2003 and 7410 of 2003 were allowed to continue upto the age of 60 years. They have been paid the wages for this period. However, increments and other permissible increases have not been paid to them. The date of superannuation of the Petitioners in Writ Petition Nos.5359 of 2003 and 7410 of 2003 is 31st August 2005 and 31st October 2005, respectively, on attaining the age of 60 years.

6. The contentions raised in these Petitions are not disputed by the Corporation in view of the fact that no reply has been filed by it. We, therefore, accept the submissions made by Mrs.Neeta Karnik on behalf of the Petitioners in all these Petitions. There can be no doubt that the workmen belonging to the categories of Safai Kamgar, Bigari, Ward-boy, Aaya, Peon, Mukadam,

Mali, Superior, Field Worker, Hawaldar, Jamadar, Carpenter, Mason, Head Mukadam, Deptrdan, Typist, etc.. are entitled to continue upto the age of 60 years which is the age of superannuation. The services of the concerned workmen were terminated illegally prior to their respective dates of superannuation.

7. The workmen concerned would, therefore, be entitled to all the remuneration including permissible increases and other emoluments for having worked upto the age of 60 years. The pensionary benefits of the workmen should also be calculated taking into account the fact that the age of superannuation is 60 years. The amounts due to the concerned workmen shall be paid to them within a period of twelve weeks from today.

8. The right of the Union representing the workmen employed in the Corporation to challenge the service regulations as and when they are approved by the State Government is reserved.

9. Rule made absolute accordingly in all the Writ Petitions. No order as to costs.

(V.G.PALSHIKAR, J.)

(SMT.NISHITA MHATRE, J.)